



Samuel J. Rubin  
+1 212 813 8852  
SRubin@goodwinlaw.com

Goodwin Procter LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018

goodwinlaw.com  
+1 212 813 8800

January 27, 2022

**VIA ECF**

Hon. Andrew L. Carter, Jr.  
United States District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

Re: Korovin v. Citigroup Global Markets Holdings Inc., 1:21-cv-3294-ALC (S.D.N.Y.)

Dear Judge Carter:

We are counsel to Defendant Citigroup Global Markets Holdings Inc. ("CGMHI") in the above-referenced action and write jointly on behalf of both parties to respectfully seek modification of the current two-track briefing schedule applicable to CGMHI's pending motion to dismiss the Complaint on the basis of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). See ECF Nos. 24-25.

This action is one of the six Related Actions to the *Kirk v. CGMHI* action in which the Court established a two-track briefing schedule whereby the Court would resolve motions challenging the Court's subject matter jurisdiction prior to addressing motions to dismiss for failure to state a claim pursuant to Rule 12(b)(6). See *Kirk*, No. 20-cv-7619, ECF Nos. 42, 65.<sup>1</sup> Pursuant to Court-approved extensions of Plaintiff Korovin's deadlines to pay filing fees in this action, CGMHI's motion to dismiss the *Korovin* complaint was not briefed until December 3, 2021, and Plaintiff's opposition brief is due January 28, 2022, with Defendant's reply due February 4, 2022.

On January 13, 2022, this Court decided a motion to dismiss for lack of subject matter jurisdiction in a similar Related Action, *Zellner v. CGHMI*, No. 1:21-cv-2413-ALC. The Court denied CGMHI's motion holding that the Court lacked diversity jurisdiction over the plaintiff's common law fraud claim, but that deficiencies with regard to plaintiff's alleged Section 11 claim should be addressed after the parties could brief arguments pursuant to Rule 12(b)(6). *Id.* ECF No. 26 at 4-5. In light of the close similarity between the *Zellner* and *Korovin* pleadings, the parties jointly seek modification of the current briefing schedule to avoid unnecessary submission of opposition and reply memoranda solely on Rule 12(b)(1) grounds.

Accordingly, the parties request modification to the operative briefing schedule to account for the recent *Zellner* ruling and to schedule the briefing in this action on the same schedule as *Zellner*. The parties respectfully request establishment of a schedule whereby CGMHI's opening brief in support of a

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<sup>1</sup> In addition to this action and the *Kirk* action, the other "Related Actions" are: (i) *Yambo-Torres v. CGMHI* (No. 21-cv-02386-ALC); (ii) *Jacobson v. CGMHI* (No. 21-cv-2384-ALC); (iii) *Allen v. CGMHI* (No. 21-cv-2387); and (iv) *Zellner v. CGHMI* (No. 1:21-cv-2413-ALC). See *Kirk* Action ECF Nos. 42, 65. On January 13, 2022, the Court dismissed the *Kirk* Action for lack of subject matter jurisdiction. *Id.*, ECF No. 96. On January 13, 2022, the Court denied CGMHI's motion to dismiss the *Zellner* action for lack of subject matter jurisdiction and, on January 20, 2022, established a briefing schedule to brief CGMHI's motion to dismiss for failure to state a claim. *Zellner*, ECF Nos. 26, 28. The *Yambo-Torres* Action is both unserved and unopposed (No. 21-cv-02386-ALC, ECF Nos. 15-19). The remaining *Allen* and *Jacobson* actions are *sub judice*.



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motion to dismiss for failure to state claim pursuant to Rule 12(b)(6) will be due on February 17, 2022, with Plaintiff's opposition thereto due March 17, 2022, and Defendant's reply in further support thereof (if any) due on March 31, 2022. The parties have conferred and jointly submit this request.

Respectfully submitted,

/s/ Samuel J. Rubin

Samuel J. Rubin

Cc: Eugene Korovin (*via* ECF)